

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In Re:) Case No. 08-58592
)
Rocky A. DeVito and) Judge C. Kathryn Preston
Pamela S. DeVito,)
)
Debtor/Appellants.)

**DESIGNATION OF CONTENTS OF RECORD ON APPEAL
AND STATEMENT OF ISSUES**

Now come the Debtor/Appellants, Rocky & Pamela DeVito, by and through counsel, and do hereby respectfully designate for inclusion in the record on appeal the following documents and papers in the materials submitted to the United States District Court and sets forth a Statement Of The Issues she intends to present on appeal:

A. Designation Of Contents Of Record

1. The entire file together with all papers, documents, orders, entries, findings of facts and/or conclusions of law and pleadings contained therein, including, but not limited to:
 - a) Docket Entry #1 - Chapter 13 Voluntary Petition;
 - b) Docket Entry #2 - Chapter 13 Plan filed by Debtor;
 - c) Docket Entry #10 - Notice of Meeting of Creditors and Confirmation Hearing Date;
 - d) Docket Entry #23 - Amended Chapter 13 Plan;
 - e) Docket Entry #28 - Trustee's objection to confirmation;
 - f) Docket Entry #29 - Appraisal of Property
 - g) Docket Entry #30 - Second Amended Plan
 - h) Docket Entry #31 - Amended Schedule A
 - i) Docket Entry #48 - Trustee's Amended Objection To Confirmation
 - j) Docket Entry #49 - Trustee's Objection To Confirmation
 - k) Docket Entry #50 - Adversary Proceeding Complaint
 - l) Docket Entry #53 - Amended Schedule I
 - m) Docket Entry #54 - Third Amended Chapter 13 Plan
 - n) Docket Entry #57 - Trustee's Amended Objection To Confirmation
 - o) Docket Entry #60 - Amended Schedule J
 - p) Docket Entry #61 - Fourth Amended Chapter 13 Plan
 - q) Docket Entry #64 - Order Denying Confirmation and Dismissing Case

B. Statement Of Issues

1. Did the Bankruptcy Court abuse its discretion when it denied confirmation of the Debtors' proposed Chapter 13 Plan and dismissed the Debtors' case where:
 - a) The cause of delay to confirmation was based on the Trustee's refusal to recommend

confirmation until the Debtors' resolved the pending Adversary Proceeding, and;

- b) The Court denying confirmation and dismissing the Debtor's case without conducting an evidentiary hearing on the elements of confirmation when coming to the determination that confirmation of the plan would be denied and the case dismissed.

Respectfully Submitted,

THE ROMANO LAW FIRM

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Attorney for Appellants, Rocky & Pam DeVito

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Designation of Contents of Record on Appeal and Statement of Issues was served electronically via the Court's ECF/CM system on this 18th day of November, 20089 upon the following parties:

Asst. U.S. Trustee (Col.)
at ustpregion09.ecf@usdoj.gov

Frank M. Pees, Chapter 13 Trustee
at trustee@ch13.org

American Honda Finance Corp.
PO Box 1844
Alpharetta, GA 30023-1844

Beneficial
Customer Service
1123 West 5th Avenue
Marysville, OH 43040

Capital One
c/o eCast Settlement Corporation
PO Box 35480
Newark, NJ 07193-5480

Citifinancial, Inc.
Bankruptcy Department
PO Box 140489
Irving, TX 75014-0489

Citizens Financial Services, Inc.
124 West 5th Street
Marysville, OH 43040

Discover Financial Services, LLC
PO Box 3025
New Albany, OH 43054-3025

GE Money Bank/Lowe's
Attn: Bankruptcy Department
PO Box 103104
Roswell, GA 30076

Home Depot
Credit Services
PO Box 689100
Des Moines, IA 50368-9100

Honda Federal Credit Union
17655 Echo Drive
Marysville, OH 43040

Honda Manufacturing 401(k) Savings

c/o T.Rowe Price
PO Box 17349
Baltimore, MD 21297-1349

HSBC Bank Nevada - Rhodes, Inc.
Bass & Associates, PC
3936 E. Ft. Lowell Road, Suite 200
Tucson, AZ 85712

HSBC Mortgage Services
c/o Moss Codilis
PO Box 21188
Saint Paul, MN 55121-4201

Washington Mutual
Card Services
PO Box 660509
Dallas, TX 75266-0509

Wells Fargo Financial
4137 121st Street
Urbandale, IA 50323

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